

AN INVESTIGATIVE REPORT ON  
EXTRATERRITORIAL ZONING IN KANSAS

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## Preface

A municipality is traditionally viewed as a self-contained unit whose powers and duties are limited to the confines of its geographic boundaries laid down by laws and charters at their conception; municipal bounds that in many cases were;

"...often prescribed decades or even centuries ago and based in many instances on considerations of geography, of commerce, or of politics that are no longer significant...."<sup>1</sup>

We all should be aware that these boundaries can no longer serve in the best interest of the municipalities for many reasons. In the words of William Anderson,

"A city is not a self-sufficing unit. In many cases it needs to go outside its area to find an adequate water supply and suitable locations for hospitals, correctional institutions, parks, sewage disposal works, and other amenities. Nuisances created just outside of city limits prove dangerous to the local health and safety."<sup>2</sup>

Just as a municipality is not a self-sufficient unit, peripheral areas contiguous to it are often dependent upon the city for some governmental services. For example, if fringe areas were serviced by sewer and water systems financed solely by fringe inhabitants, they would soon find that such conditions are economically intolerable. There are few peripheral areas capable of supporting adequate health, fire and/or police departments, yet the necessity of having such services is quite obvious.

The artificiality of municipal boundaries is accented in metropolitan areas where large numbers of workers and shoppers commute daily to and from the "center core" for employment and trade. Unknowingly, they cross

<sup>1</sup>Charles M. Haar, "Regionalism and Realism in Land Use Planning," (University of Penn. Law Rev., 1957), pp. 524-525.

<sup>2</sup>William Anderson, "Extraterritorial Powers of Cities," (10 Minn. Law Rev., 1926), p. 475.

many municipal boundaries in their journey. Smaller non-metropolitan municipalities are also affected by their hinterland. Fringe inhabitants of both the larger metropolitan areas and the smaller non-metropolitan municipalities are dependent upon the "city" for various reasons: i.e., economic and social.

It stands to reason that the core city and the surrounding zone of influence are mutually interdependent. Since mutual interdependence does exist, it seems only logical that some type of method should be devised not only to implement that interdependence, but to control it as well, to insure its proper growth and development.

"The exercise of extraterritorial powers by a core city is an attempt to mitigate the severe effects of the principal that a municipal corporation has prescribed boundaries."<sup>3</sup>

One extraterritorial power that municipalities use is extending governmental services, such as sewer and water into the fringe area. However, the extraterritorial power with which this report will be concerned is the power of extraterritorial zoning. Specifically, this report is on extraterritorial zoning in Kansas.

It is the intent of this report to serve several functions. Within this report there will be a general discussion of extraterritorial zoning not specifically in Kansas, but as it applies to the nation as a whole. Through a general discussion and interpretation of several court decisions, the legal basis for extraterritorial zoning will be presented.

Specific sections of this report will deal with the following material; the presentation of the history of extraterritorial zoning and a discussion of the legislature's intent and reasoning behind the establishment of the power in Kansas. Second, an analysis of a survey, conducted by the writer, of selected municipalities and counties within Regions 01, 03 and 11 (see

<sup>3</sup>Frank S. Sengstock, "Extraterritorial Powers in the Metropolitan Area," (University of Michigan Law School, Legislative Research Center, 1962), p.3.

Appendix for map), as delineated by the Kansas Department of Economic Development; a survey conducted to determine the effects of limitations found in the Kansas Statutes and the reasons for the use or non-use of the power of extraterritorial zoning. Third, an analysis and comparison of the Kansas statutes establishing this power to the statutes of Wisconsin and Florida, which establish similar extraterritorial zoning powers. The culmination of this report will be in the form of recommendations intended to serve as guidelines to improve and/or strengthen the present extraterritorial zoning power in Kansas.

The author acknowledges the invaluable assistance and guidance of Professor Leland Edmonds, Dr. John Keller and Assistant Professor Claude A. Keithley, of the Department of Regional and Community Planning, Kansas State University, Manhattan, Kansas, in the preparation of this report. Special thanks is directed to Senator Gaar and former Representative Amrein and to the persons who responded to the letters and questionnaire's mailed to them by the author. This author also acknowledges the support given by fellow students and friends. Finally, the author wishes to acknowledge his profound indebtedness to his wife, Vicki Lynn, without whose constant interest and unceasing inspiration, this report could not have been achieved.

# TABLE OF CONTENTS

Preface		i-iii
Chapter		
1	INTRODUCTION	1
	The True Territorial Base	1
	Planning and Zoning	2
	Extraterritorial Zoning Defined	2
	Other Methods of Control	3
2	THE LEGAL BASIS OF EXTRATERRITORIAL ZONING	6
	The Police Power	6
	<u>Village of Euclid vs. Ambler Realty Co.</u>	6
	<u>Borough of Cresskill et. al. vs. Borough of Dumont</u>	7
	<u>Duffcon Concrete Products vs. Borough of Cresskill</u>	8
	<u>Raleigh vs. Morand</u>	8
	<u>Walworth Co. vs. Elkhorn</u>	9
	<u>Elias vs. Tulsa</u>	9
	<u>Koppel vs. City of Fairway</u>	10
	<u>Schlientz vs. North Platte</u>	10
	Criteria for the Validity of Extraterritorial Zoning	11
3	HISTORY AND INTENT OF SENATE BILL 210, ESTABLISHING EXTRATERRITORIAL ZONING	12
	Senate and House Action	12
	The Intent	12
	Recognition of the Importance of Controlling the Fringe Area by other Statutes	14
4	SURVEY ANALYSIS	16
	Criteria for Selecting Municipalities	16
	Results of the County Questionnaire	16
	County Questionnaire	follows 16
	Postcard Questionnaire	18
	Selected Municipalities	18

	Municipal Questionnaire	follows 18
	Results of the Municipal Questionnaire	19
	Conclusions of the Survey	22
5	ANALYSIS AND COMPARISON OF KANSAS, WISCONSIN AND FLORIDA STATUTES ESTABLISHING EXTRATERRITORIAL ZONING	23
	Kansas Authority 12-715b	23
	12-715c and 12-715d	23
	Wisconsin Authority	24
	Florida Authority	25
	Difference	25
	Similarities	26
	Limitations of the Kansas Authority	26
6	RECOMMENDATIONS	31
	Recommendation 1	31
	Recommendation 2	32

## Chapter 1

In the beginning, land use planning and zoning were considered to be for the most part, for application within the legal boundaries of the municipalities. Today that situation is not applicable for many reasons.

The true territorial base for planning and zoning is not the legal bounds of a municipality, but should be determined by social, economic and geographical features that often transcend those bounds. Extra-territorial zoning is one method of implementing planning on its true territorial basis.

In many cases, the rapid expansion of municipalities makes the planning of the undeveloped peripheral area a necessity if the land is to prosper and develop in an orderly fashion.

"The continued shift of population to urban centers requires the removal from agricultural use of increasingly large acreages. Unless the land can be planned and zoned before it becomes developed, it will lose its agricultural characteristics without acquiring stable urban qualities."<sup>4</sup>

Approaches to many municipalities, large and small, are prime examples of the unplanned environment. Drive-ins, small businesses, trailer parks and businesses, small residences, and various industries line the highways; many of them lacking in sufficient design and structure and most create an "eyesore" at the municipals fringe. They not only detract immeasurably from the attractiveness of the entrance to the municipality and many times deter future development, but in some instances may also create serious health and safety hazards. These conditions and many others can be prevented by effective planning and zoning.

<sup>4</sup>Frank E. Horack, Jr. and Val Nolan, Jr., Land Use Controls (American Casebook Series, 1955), p. 58.

"Only as planning and zoning can create, without regard to territorial boundary lines, an overall community development which will provide adequate industry, good business, desirable residential areas, and proper community improvements and activities, will the area prosper and develop."<sup>5</sup>

By exerting extraterritorial planning and zoning over undeveloped lands, municipalities can provide for their future development in an orderly way. Extraterritorial planning and zoning can help to provide a reasonable assurance to subsequent generations that municipalities will be relatively free of the undesirable elements which today disfigure the faces of many municipalities.

At this point, a moment will be used to discuss the functions of planning and zoning. Planning is at best a monumental waste of time and effort unless it is implemented, so as to give reasonable assurance that the forecasted ends can be attained. Zoning is a major tool of implementation. Planning suggests the most feasible approach to a proper relationship among the various components that together comprise community life, selected on the basis of that which will be most conducive to and commensurate with the common interest. Zoning, on the other hand, is the separation of the municipality into districts, and the regulation on buildings and structures in the districts created, in accordance with their construction and the nature and extent of their use. Briefly, the planning function is that of outlining a course of action, and zoning is designed to put that course of action into effect.

Just what exactly is meant by extraterritorial zoning? Zoning was just defined, but what is meant by extraterritorial. Webster's Dictionary defines it as follows: "located outside the territorial limits of jurisdiction." Combining the two definitions produces the following: the separation of territory outside the territorial limits of jurisdiction of

<sup>5</sup>Ibid.



the municipality into districts, and regulation of buildings and structures in the districts created, in accordance with their construction and the nature and extent of their use. In more direct terms, and seemingly a more operational definition, the following is preferred. "Extraterritorial zoning is an extension of the comprehensive zoning that exists within the corporate limits."<sup>6</sup>

But why extraterritorial zoning? Obviously, there are other available methods to control the fringe area, such as, township or county zoning; perhaps the use of private restrictions in the form of deed agreements; or plan the area now and wait to impose restrictions until annexation.

The idea of township or county zoning is of course a perfectly valid and proper remedy, but their effectiveness is open to question. A mutual recognition of the problem and a willingness to cooperate is necessary between the township or county and the municipal governments. Unless those charged with the responsibility of township or county zoning are sympathetic with the objectives of urban zoning, the likelihood of close cooperation is somewhat remote. It is more likely that township or county zoning will reflect the attitudes of rural residents. If the attitude is one of hostility toward what the rural residents believe to be undue restriction, township and/or county zoning will very probably be of little aid to comprehensive planning and zoning at the municipalities fringe.<sup>7</sup>

Private deed restrictions and a zoning ordinance have many similarities, but a zoning ordinance has certain advantages over private restrictions. A zoning ordinance provides for mutual benefit of neighbors by establishing requirements that are uniform throughout which protect each property owner from his neighbor. Private restrictions produce the same results in many cases, but never throughout the entire community, as zoning does. The

<sup>6</sup>American Society of Planning Officials, Extraterritorial Zoning (Planning Advisory Service Information Report No. 42), p. 2.

<sup>7</sup>See essays by Solberg and Stout, "Planning and Zoning in Rural Areas," in Planning 1973; Proceedings of the Annual National Planning Conference 163 (Solberg), 173 (Stout) (1953).

system of enforcement for a zoning ordinance is far superior to the enforcement of private restrictions. Zoning ordinances are enforceable by the individual property owner who can litigate a violation of the ordinance. A zoning ordinance relies upon the surrounding circumstances as the basis for its reasonableness and validity. Private deed restrictions are, however, established at a certain point of time and run with the land and not the title of the land. With passage of time, circumstances change and a zoning ordinance changes with those circumstances to remain valid. Private restrictions apparently do not.

It was established earlier that planning is a waste of time unless it is implemented, "There can be little planning when land use is fait accompli."<sup>8</sup> Therefore, the suggestion that we plan now and wait for imposition of restrictions until annexation, would be a serious mistake. It would be no better than what occurs now; the annexation of numerous haphazard non-conforming developments. As a planner, it appears that most municipalities take annexation too lightly. Municipalities should be demanding pre-control of the areas next in line for annexation. Unless pre-control does exist, the stage is set for haphazard, substandard and non-conforming development to occur. Extraterritorial zoning can provide the necessary pre-control.

It was established earlier that planning is a waste of time unless it is implemented, "There can be little planning when land use is fait accompli."<sup>8</sup> Therefore, the suggestion that we plan now and wait for imposition of restrictions until annexation would be a serious mistake. Annexation is the addition of territory to the municipal corporation. The territory to be annexed can be characterized as being developed or undeveloped. If a municipality is in need of land to develop then the annexation of clear and undeveloped land is the ideal. This land can be annexed and then controlled and regulated to insure that orderly, compatible development can occur. If however, the land to be annexed has already developed, then the chances for non-conforming, incompatible land uses to exist is potentially great.

<sup>8</sup> Louis F. Bartelt, Jr., "Extraterritorial Zoning: Reflections on its Validity," (Notre Dame Lawyer, 1957), p. 372.

Due to the lack of pre-control and/or regulation of the land next in line for annexation many municipalities are faced with developments in the fringe area that detract from the attractiveness of the entrance to the municipality and many times creates health and safety problems. Areas that develop uncontrolled and unregulated are potentially great burdens to the municipality that will annex them. Many times these areas lack sufficient sewer and water systems, street surfacing and lighting and adequate structural design, all of which are expensive items to replace and/or develop into standard, acceptable conditions. Pre-control and regulation of the fringe territory can lessen and/or prevent the development of substandard unplanned areas.

To protect the entrances of the municipality from unsightly, substandard developments and to insure that the fringe territory will acquire stable urban qualities before annexation; pre-control and regulation is necessary. Municipalities should be demanding that pre-control and regulation of developments in the fringe territory be a prerequisite to development. Extraterritorial zoning is a method of providing the necessary pre-control and regulation in the fringe areas.

## Chapter 2

The power to zone is one of the police powers which is inherent in the state, and it can only be exercised by municipalities to the extent that it is delegated to them by the state. Delegations of power by the state to municipalities are constitutional authorizations, commonly referred to as enabling statutes. If a zoning ordinance is to be adopted, the enabling statutes must be rigidly followed.

"When the authority for a zoning ordinance is found in an enabling statute, the ordinance must follow the statute, for there is no other justification for the existence of the municipal power. The ordinance must not be more inclusive nor more restrictive than the legislative authorization. A valid zoning ordinance has the force of a statute, it is as though the law was passed by the legislature itself."<sup>9</sup>

The term "police power" can be defined in general terms, but nowhere is it fully or exactly defined. It can generally be defined, however, as the power to regulate for the promotion and protection of the public health, morals, safety, comfort, convenience, and the general welfare. In more recent discussions, "morals" is apparently being deleted.

"The police power is not static, but is flexible and adaptive. It is elastic to meet changing and shifting conditions. It must be adaptive to provide proper regulations required by a changing world; to meet the problems arising from the increased population, the increased interdependence of people, and the complex commercial and social relations of the citizens."<sup>10</sup>

The first comprehensive zoning ordinance in the United States was enacted in 1916, and its validity was upheld by state courts in 1920.<sup>11</sup> In 1926, the issue was presented to and decided by the U.S. Supreme Court in the case of Village of Euclid vs. Ambler Realty Co., 272 U.S. 365, 47 Sup. Ct. 141, 71 L. Ed. 303 (1926).

<sup>9</sup>Otis J. Bouwsma, "The Validity of Extraterritorial Municipal Zoning," (Vanderbilt Law Rev., 1955), p. 810.

<sup>10</sup>Ibid.

<sup>11</sup>Bartelt, op. cit., p. 375.

"The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power, asserted for the public welfare. The line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation. It varies with circumstances and conditions. Under these circumstances, therefore, it is enough for us to determine, as we do, that the ordinance in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority, leaving other provisions to be dealt with as cases arise directly involving them."<sup>12</sup>

From this decision forward the argument that the power to zone is an infringement of constitutional rights is not seriously challenged. However, the right to attack specific application of zoning, and specific provisions of individual ordinances was well established; and such attacks in the lower courts have been almost innumerable. Such action provides the courts the opportunities to refine the law. A zoning ordinance must show a reasonable relationship to the police power; and must adhere closely to the enabling statutes provided by the state legislature.

The following cases seem to sustain the necessity of considering not merely the circumstances within the municipality, but beyond them as well.

In the case of Borough of Cresskill et. al. vs. Borough of Dumont, 100 A. 2d. 182. 28 N.J. Super. 26 the court said:

"Hence, it becomes a legal requirement that the restrictions and regulations in a zoning ordinance must be made with reasonable consideration to the character of the land and also to the character of the neighborhood lying along the border of the municipality adopting the ordinance."<sup>13</sup>

<sup>12</sup>Charles M. Haar, Land Use Planning (Little, Brown and Company, 1959), p. 340, citing Village of Euclid Vs. Ambler Realty Co. 272 U.S. 365 47 Sup. Cit. 141, 71 L. Ed. 303 (1926).

<sup>13</sup>Horack and Nolan, op. cit., p. 61, citing Borough of Cresskill et. al. vs. Borough of Dumont, 100 A. 2d. 182. 28 N.J. Super. 26.

Further, in the case of Duffcon Concrete Products vs. Borough of Cresskill, 1 N.J. 509, 64 A. 2d. 347, 349, 9 A.L.R. 2d 678 (1949), the court said the following:

"What may be the most appropriate use of any particular property depends not only on all the conditions, physical, economic, and social, prevailing within the municipality and its needs, present and reasonably prospective, but also on the nature of the entire region in which the municipality is located and the use to which the land in that region has been or may be put most advantageously."<sup>14</sup>

Closer examination of the above cases will show that they dealt with built up suburbs. However, from a planning point of view their underlying concept that the "general welfare" transcends the artificial boundaries of municipalities, applies equally well to non-metropolitan areas.<sup>15</sup>

But, specifically how have the courts treated extraterritorial zoning? As long as a century ago, a type of extraterritorial control was upheld. In 1849, the City of Savannah, Georgia, could validly prohibit rice farms within one mile of the City.<sup>16</sup>

In another case decided in 1843, the City of Baltimore could regulate or prohibit slaughter houses, hog farms, and nuisances dangerous to health and safety of the people of the city, within an area extending three miles from its boundaries.<sup>17</sup>

The constitutionality of an extraterritorial zoning ordinance enacted pursuant to legislative authorization was upheld in Raleigh vs. Morand, 247 N.C. 363, 100 S.E. 2d 87, (1957). The municipality had been granted power to extend its zoning jurisdiction one mile beyond the corporate

<sup>14</sup> Ibid., citing Duffcon Concrete Products vs. Borough of Cresskill, 1 N.J. 509, 64 A 2d 347, 349, 9 A.L.R. 2d 678 (1949).

<sup>15</sup> George Lefcoe, Land Development Law (The Bobbs-Merrill Company, Inc.), p. 1376.

<sup>16</sup> Bouwsma, op. cit., p. 812.

<sup>17</sup> Ibid.

limits and sought to enforce provisions of the ordinance excluding trailer camps. This was a point of first impression and the court, with a minimum of discussion, applied the general rule that the legislature may grant police power jurisdiction to municipalities over a reasonable area outside the corporate limits. Zoning, the court held, was an exercise of the police power. Hence, an extraterritorial ordinance supported by enabling legislation was valid.<sup>18</sup>

In 1965, the Supreme Court of Wisconsin in the case, Walworth Co. vs. Elkhorn, 133 N.W. 2d 257 (Wis. 1965), upheld the validity of statutory provisions for extraterritorial zoning as reasonably related to the police power, holding such provisions not to be violative of equal protection or due process of law. In this decision the court sustained the validity of an ordinance assuming extraterritorial zoning powers for one and one-half miles into adjoining unincorporated territory.<sup>19</sup> The court also relied on the desirability of regulating the development of areas adjacent to the city before their annexation.<sup>20</sup>

In Elias vs. Tulsa, 408 P. 2d 517 (Okla. 1965), the Oklahoma Supreme Court held invalid as a "special" law and as being discriminatory in application, an act embracing the population of Tulsa, Oklahoma, but excluding from its effect the slightly more populous City of Oklahoma City, with respect to legislative authority to zone extraterritorially within five miles of corporate units of cities with counties in the named classifications.<sup>21</sup> Therefore, legislation providing the power of extraterritorial zoning should apply equally to all municipalities within the state.

<sup>18</sup>"North Carolina Law Review," (North Carolina Law School, 1958), pp. 423-433.

<sup>19</sup>Emmett Clinton Yokley, Zoning Law and Practice (Michie Company, 1953), p. 21.

<sup>20</sup>Daniel R. Mandelker, Managing Our Urban Environment (The Bobbs-Merrill Company, Inc., 1963), p. 345.

<sup>21</sup>Yokley, op. cit., p. 22.

Perhaps the most serious objection to implementing extraterritorial zoning is the lack of representation of the inhabitants in the area to be covered by the extraterritorial ordinance. However, representation of the inhabitants could be accomplished in many ways. All citizens have the right of due process of law and this is one method of assuring representation. In Koppel vs. City of Fairway, 189 Kan. 710, 371 P. 2d 113 (1962), the right of non-residents to protect and/or be heard in a zoning change which affected them was upheld.

"The Kansas Supreme Court was faced with two questions: whether the non-residents had the right to have protest considered by the council in the planning stages and whether non-residents had standing to bring an action in the district court to have the council's action reviewed. The court answered both questions in the affirmative and sustained the lower courts overruling of the city's demurrer. The court interpreted the statute authorizing "affected property owners" to challenge the council's action in the district court to include non-residents who owned adjacent property."<sup>22</sup>

It would appear that the inhabitants affected by an extraterritorial zoning ordinance would have the same rights as those non-residents in Koppel vs. City of Fairway. This case also illustrates the attitude that a municipality's zoning responsibility extends beyond its borders.<sup>23</sup>

In another case, Schlientz vs. North Platte, 110 N.W. 2d 58 (Neb. 1961), the Nebraska Supreme Court upheld the validity of a statute authorizing cities to extend and apply by ordinance their zoning regulations to an area one mile beyond and adjacent to their corporate boundaries. In this case the court upheld the validity of an ordinance enacted pursuant to such statute, holding that no constitutional infirmity existed merely because the residents of the extraterritorial area had no voice in the selection of the officials of the city which enacted the ordinance.<sup>24</sup>

<sup>22</sup>J.R. Atkinson and other, "Zoning: Looking Beyond Municipal Borders," (Washington University Law Quarterly, 1965), p. 123.

<sup>23</sup>Ibid.

<sup>24</sup>Yokley, op. cit.



A second method of providing representation would be to have some members of the adjacent area serve on the city planning commission. An examination of state statutes would clearly show that this is very often the case. For example, the Kansas Statutes provide for: "... the appointment of two (2) commission members who reside outside the city but within three (3) miles thereof, ..."25

There are other ways of providing for representation of the fringe inhabitants, but actually it could be argued that they are already represented. Municipalities are agents of the state; they have no power either within or without their boundaries unless they have state legislative authorization. Therefore, one could argue that any municipal action taken extraterritorially is actually an act of the state legislature in which all residents have representation.

It appears that the validity of an extraterritorial zoning ordinance is based on the following criteria:

- 1) It must show reasonable relationship to the public health, safety, comfort, convenience, and the general welfare, more specifically, the concerns of the police power.
- 2) It must not be arbitrary or capricious or constitute a taking of land.
- 3) It must be passed and established pursuant to the proper enabling statutes of the state.

One must not conclude that if an extraterritorial zoning ordinance meets the above criteria that every court will uphold it, however, it does appear that these are three necessary characteristics. Review by the courts will be done on a case by case basis and decisions will be based on the circumstances and facts surrounding each.

<sup>25</sup>Kansas Statutes Annotated 1969, Supp., 12-715b.

### Chapter 3

Senate Bill 210, establishing the power of extraterritorial zoning, was introduced and passed in the 1969 session of the Kansas Legislature. Senator William A. Dearth of Parsons, Kansas, was the author of the bill. For those interested in a day by day account of both Senate and House action, see Appendix A-2. Copies of the original bill and the amended bill will also be found.

Briefly, S.B. 210 was introduced on February 17, 1969, in the Senate. The next day it was read for the second time and referred to committee. On March 17, it was amended by the committee. It was recommended for passage as amended on March 21, and was passed by the Senate on March 24, by a vote of 37 yeas and 0 nays.

It was announced in the House on March 25, that S.B. 210 was passed by the Senate and was then read for the first time. The next day it was read for the second time and referred to committee. On April 1, the committee recommended that it be passed and on April 9, it was passed on roll call by the House; the vote 97 yeas and 8 nays.

S.B. 210 was reported correctly enrolled, properly signed and presented to the governor on April 10. It was approved by him on April 13, 1969. A total of forty (40) days passed between the introduction and the approval of the governor making it law.

The history of a bill is interesting, but hardly the most important information. What is important is the intent of the legislature in establishing the power outlined by the bill. What then was the intent of the Kansas Legislature in establishing the power of extraterritorial zoning in the state?

In an attempt to identify the intent of the Kansas Legislature, a review of the records from the Senate and House Committee Hearings on S.B. 210 and an interview with the author of the bill, Senator Dearth, had been anticipated. However, it was established that no records were kept of the hearings in 1969, and Senator Dearth has since died.

Further attempts were made in hopes of identifying the intent of the legislature by contacting Senator Gaar, who served as Chairman of the Senate State and Local Affairs Committee in 1969. Senator Gaar was contacted in hopes that he might have kept some private notes and/or could recall some of the proceedings of the committee hearings on S.B. 210; a copy of his response is in the Appendix. At Senator Gaar's suggestion, former Representative Amrein, Chairman of the House Local Government Committee in 1969, was contacted. A copy of his response can also be found in the Appendix. The Legislative Research Department was also contacted.

Because of the lack of hard evidence (records) the following reasons for establishing extraterritorial zoning in Kansas by the Legislature are speculative, but based in part on fragments of information from the responses of Senator Gaar and former Representative Amrein and conversations with other persons in the state on the subject.

From the following segments of the responses made by Senator Gaar and former Representative Amrein, it appears that the reason for establishing the power of extraterritorial zoning in Kansas by the Legislature was in response to failure on their part in an earlier session to provide the municipalities a method of controlling development along the highways leading to and from their boundaries.

Senator Gaar:

"... and was much more involved in annexation than I."

Former Representative Amrein:

"I do recall that one of the arguments for the Bill was that the smaller communities, and perhaps all communities, could control the use of the lands adjoining the highways leading into and away from the city limits. There are and were some unsightly and some unnecessary land uses just outside of many city limits.

Several years earlier when the new annexation law was passed there were unsuccessful attempts to permit annexation down the highways leading to and away from cities for this very same reason."

It should also be noted that Senator Dearth, the author of the Bill, was from Parsons, Kansas. At the time of the Bill's conception, Parsons had many unsightly and unnecessary land uses located along the highways leading to and from the city. Perhaps Senator Dearth's reason for purposing extraterritorial zoning was based on his first hand observations of what can occur without proper controls to insure planned development.

It appears that the Kansas Legislature has recognized the importance of controlling the municipal fringe by establishing not only the power of extraterritorial zoning; K.S.A. 1969 Supp. 12-715b, 12-715c and 12-715d, but by providing other means of controlling the three (3) mile area around the municipality, as specified in the following statutes.

"12-705. The city planning commission of any city which has adopted a comprehensive plan may adopt and may amend regulations governing the subdivision of land located within an area which shall be designated by resolution of the governing body of the city for this purpose. Such area shall include any unincorporated territory lying on the city limits provided such territory is within the same county in which the city is located and does not extend more than one-half of the distance between such corporate limits and the corporate limits of another city which has adopted regulations under the provisions of this section." K.S.A. 1969, Supp.

"19-2927. For the purpose of promoting the public health, safety, morals, comfort, general welfare, and conserving and protecting property and building values throughout the county, or portions thereof, the county commissioners of any county in this state, having a city of the first, second or third class located therein, whether or not operating under the provisions of any county zoning law, may by resolution at a regular meeting of said board, provide for the preparation, adopting, amendment, extension, enforcement and variation of zoning regulations within the unincorporated territory lying within three (3) miles of any such city of the first, second, or third class which has established a city planning commission and has adopted a zoning ordinance in accordance with the provisions of section 12-701 and sections 12-707 to 12-715, inclusive, of the General Statutes of 1949. Said resolution shall become effective upon publication thereof in the official county paper." K.S.A. 1969, Supp.

The relationship that exists between a municipality and its fringe area has also been recognized by the Kansas Legislature.

"12-702. Such city planning commissions shall consist of not less than seven (7) or more than fifteen (15) electors of which number two (2) members shall reside outside of but within three (3) miles of the corporate limits of said city..." K.S.A. 1969, Supp.

"12-704. The planning commission is hereby authorized to make or cause to be made a comprehensive plan for the development of such city and any unincorporated territory lying outside of the city, but within the county in which such city is located, which in the opinion of the commission forms a total community of which the city is a part." K.S.A. 1969, Supp.

## Chapter 4

As part of the research for this report, a survey of selected Kansas municipalities was conducted. The intent of the survey was to determine the effects of the limitations of the power of extraterritorial zoning discussed in Chapter 5 and to determine the extent and reasons for the use or nonuse of the power in the municipalities surveyed. The municipalities were selected from Regions 01, 03 and 11 as delineated by the Kansas Department of Economic Development (See Appendix for map). The following criteria were used to select the municipalities.

- (1) The county or township in which the municipality is located did have a zoning resolution in effect.
- (2) The municipality had a planning commission.
- (3) The municipality had a zoning ordinance with two or more use districts and covering the entire city.
- (4) Response to the questionnaires.

To determine which counties had a zoning resolution the following questionnaire was sent to twenty-four of the twenty-nine counties in Regions 01, 03 and 11. According to the publication, Kansas Public Officials, 1973-1974, of the League of Kansas Municipalities, the following counties have not established a County Planning Commission and according to Kansas Statutes cannot adopt county zoning regulations. They are Chase, Morris, Wabaunsee, Atchinson and Washington counties.

Seventeen (17) or seventy-one (71) percent of the twenty-four questionnaires mailed were returned and the results are as follow:

Eight counties have adopted a zoning resolution that covers all unincorporated land. Nemaha County has proposed a zoning resolution that covers all unincorporated land, but it has not been adopted. Jackson County has adopted

a zoning resolution, but questions if it covers all unincorporated land. Lyon County has only established a joint City-County Board for planning and zoning within the three mile area around Emporia. Six counties have not adopted a zoning resolution and the response from Miami County indicates that there exists some township zoning with the county.

Ten counties indicated that there has been official discussion about extraterritorial zoning, six indicated that no discussion has occurred and one did not respond. Of the ten counties indicating official discussion, six agreed to such action, three disagreed with such action, and one took no position either official or unofficial. Of the counties indicating that no discussion has occurred, three are in favor of discussing it and three are against such discussions being held. When asked if they personally felt that such zoning would be good, eight responded positively and seven negatively and two did not indicate their feelings either way. Apparently the counties are almost evenly split on their feelings towards municipal control of rural land. This is significant because county cooperation is an important ingredient in extraterritorial zoning. Nine of the county respondents added further comments. For each individual response see the Appendix. These comments range from general in nature to more specific such as the one from Shawnee County, "State enabling legislation is vitally needed on the above subject."

As a result of this survey and other research the municipalities in the following counties meet the criteria established earlier.

Chase	Marion	Morris
Lyon	Wabaunsee	Miami
Atchinson	Dickinson	Linn
Washington	Jackson	Nemaha
Anderson		

To determine what municipalities have a planning commission the League of Kansas Municipalities' publication, Kansas Public Officials, 1973-74, was again consulted. From this publication it was determined that in Regions 01, 03 and 11, a total of seventy-seven (77) municipalities have a planning commission.

The next step was to determine which of the municipalities possessing a planning commission also have a zoning ordinance. To accomplish this the following questionnaire was sent to each municipality having a planning commission.

Does your city have a zoning ordinance  
which has two or more use districts and  
covers the entire city? yes \_\_\_\_ no \_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Obviously, the municipalities in those counties previously deleted from the list need not have been sent the questionnaire. However, it was sent to determine just how many out of the seventy-seven municipalities possessing planning commissions have also established zoning ordinances.

There was a response of seventy-seven percent or fifty-nine (59) out of the seventy-seven (77) mailed. Fifty (50) out of the fifty-nine indicated that they have a zoning ordinance; response of eighty-five percent. Fifteen percent, or none out of the fifty-nine responding, have no zoning ordinance. Those responding negatively were deleted as potential survey candidates.

The next step was to compile a list of the municipalities that met all of the requirements established earlier. The municipalities are:

Garnett	Osawatomie	Sabetha
Goessel	Paola	Pleasanton
Hillsboro	Abilene	Greenleaf
Marion	Chapman	Alta Vista
Hiawatha	Enterprise	McFarland
Horton	Seneca	Atchison
Louisburg	Holton	Solomon

To determine the effects of the limitations and the extent and reasons for the use or nonuse of the extraterritorial zoning power, those municipalities listed above were sent the following questionnaire.





### City Questionnaire

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes \_\_\_\_\_ no \_\_\_\_\_

Have you adopted such a zoning provision?

yes \_\_\_\_\_ no \_\_\_\_\_

If you have adopted such a provision please briefly explain your reasons for doing so.

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Have you ever considered implementing this power?

yes \_\_\_\_\_ no \_\_\_\_\_

If yes, briefly explain why you did not implement this power.

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If no, briefly explain why you have not considered this power.

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Please feel free to make further comments if you wish.

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THANK YOU

Sixteen (16) out of the twenty-one (21) surveyed responded for a return of seventy-six (76) percent. The cities of Atchinson, Greenleaf, Alta Vista and McFarland were inadvertently not sent a questionnaire and were therefore, contacted by phone.

One hundred (100) percent of the municipalities surveyed indicated that they are aware of the power of extraterritorial zoning. The cities of Abilene, Paola, Pleasanton and Holton indicated that they have adopted extraterritorial zoning provisions. To acquire more information about their extraterritorial zoning provisions the municipalities were contacted by phone on April 23, 1974.

From the conversation with the city clerk of Pleasanton, it was determined that actually no extraterritorial zoning provision exists. The clerk did indicate, however, that there are fringe area problems and control is needed.

It was established from the telephone conversation with the city clerk of Holton that the city has provided for control of the fringe area by establishing a joint City-County ordinance as authorized by K.S.A. 12-716, 1969 Supp.

A very interesting situation exists with the extraterritorial zoning provision established by the city of Paola. From the conversation with the city manager it was established that Paola Township has adopted a zoning resolution that nearly encircles the city of Paola, but to the south there is a small area that is not covered by any township or county zoning resolution. Therefore, the city of Paola has adopted an extraterritorial zoning provision to cover and regulate that area. The city manager also indicated that the relationship between the municipality and the township is reasonably good at the present time, and that no real problems exist in adequate control of the area covered by the township zoning resolution. However, as indicated on the returned questionnaire and in the conversation with the city manager, Paola is faced with the possibility of the adoption of a county wide zoning resolution which does not mention the three mile authority of city zoning. As indicated, the city does not know how, or if, the county

resolution will deal with the fringe area effectively. As discussed in another section the municipalities right to control through extraterritorial zoning must cease and terminate on the date county or township zoning is adopted. Paola is a good example of how this law works. Now the city is faced with the real possibility of losing control over the fringe area and with it, the assurance of proper growth and development in the fringe area.

Abilene, Kansas, established their extraterritorial zoning provision in April 1973. According to the city manager this provision was adopted as an interim measure until the county can adopt zoning provisions. When asked if the provision in the Kansas Statutes that exempts land in excess of three (3) acres under one ownership which is used for agricultural purposes created any problems, the city manager responded by saying that close to town it does not, but further away from the municipal boundaries it does create more problems. The city manager reaffirmed that control of fringe development is of great importance to a municipality.

Only two (2) out of the sixteen (16) municipalities responding have established extraterritorial zoning provisions. Both of the cities offered the following reasons for adopting such a provision.

Abilene

"Future development, projected population growth and economic activity. To apply corrective measures in adjacent areas to stop growth in a haphazard manner."

Paola

"To control developments being started outside the city limits that will in the future no doubt become part of the city."

When asked if the municipality had ever considered implementing extraterritorial zoning, twelve (12) indicated that they have and four (4) responded negatively. But only two municipalities have done so and one (Marion) is in the process of doing so. Abilene and Paola have given their reasons for adopting such a provision. Reasons for not utilizing this power are also important.

The cities of Garnett and Seneca offer reasons;

Garnett

"Anderson County is considering zoning and subdivision regulations."

Seneca

"Nemaha County has a very good comprehensive county zoning plan ready for adoption. We feel this to be more equitable and uniform than a hodge-podge of small towns within this county zoning areas around them. Enforcement more uniform also."

If the municipalities of Nemaha and Anderson Counties can assure that proper growth and development of their fringe areas will occur by depending on the county resolution, then this is a valid approach. If, however, the county resolution does not reflect the objectives of municipal zoning in the fringe areas then the potential for poor unrelated development to occur is a real threat.

The cities of Hillsboro, Atchinson, and Sabetha have offered the following reasons for not implementing extraterritorial zoning.

Hillsboro

"The rural people are very strongly opposed to it."

Atchinson

"Too political - a fear that harsh feelings would be developed between the city and the fringe inhabitants."

Sabetha

"No need seen and we can't afford to incur the ill will of farmer's owning the land."

The control provided by extraterritorial zoning can be a benefit to everyone affected. One such benefit is that through regulation of growth and development, proper land use relations can be established to insure that one land use does not diminish the value of another land use. The fear of creating "ill will" appears to be an inadequate trade-off for allowing unregulated development to occur.

Other reasons offered for the lack of implementation of extraterritorial zoning are:

Chapman

"The zoning committee voted no."

Hiawatha

"Reluctant to impose laws without knowing the results of these laws. Also lack of need. Rural zoning should be controlled by the county."

Osawatomie

"The area immediately adjacent to the city is either in a flood plain and cannot be developed or is land owned by the State of Kansas for the Osawatomie State Hospital."

The following conclusions can be extracted from this survey.

First, a very small number of municipalities have established extraterritorial zoning. This notwithstanding that one hundred percent of the municipalities are aware of the existence of this power.

Second, the municipalities not using this power have a variety of reasons for not implementing this power. Some of the reasons appear to be inadequate from a planning viewpoint; but they do reflect local concerns and are valid from that viewpoint.

Third, and most important, the limitations discussed in Chapter 5 do have some restrictive effects on the use of extraterritorial zoning.

## Chapter 5

In Chapter 2, it was established that municipalities are agents of the state and are powerless to act unless authorized by the state. The power of extraterritorial zoning is no exception. In Kansas, the power of extraterritorial zoning was established in 1969, as specified under the provisions of K.S.A. 1969 Supp. 12-715b, 12-715c and 12-715d.

"12-715b. Any city shall be authorized to adopt zoning regulations affecting land located outside the city but within three (3) miles thereof under the following conditions, except that nothing in this act\* shall be construed as authorizing any city to adopt regulations applying to or affecting any land in excess of three (3) acres under one ownership which is used only for agricultural purposes:

"(a) The city has established a planning commission under the provisions of K.S.A. 1968 Supp. 12-708, which provides for the appointment of two (2) commission members who reside outside the city, but within three (3) miles thereof, or the city has established a joint, metropolitan or regional planning commission in cooperation with the county in which city is located pursuant to the provisions of K.S.A. 1968 Supp. 12-718.

"(b) The land outside the city, but within three (3) miles thereof has been included within a comprehensive plan recommended by either said planning commissions and has been approved by the city governing body or board of county commissioners.

"(c) The county or township does not have in effect zoning regulations for such area outside the city, but within three (3) miles thereof adopted in conformity with the statutes prescribing procedure for the adoption of county zoning regulations.

"(d) The city has notified the board of county commissions in writing sixty (60) days before initiating zoning regulations by ordinance for such area of its intention to adopt such regulations by ordinance.

"12-715c.2. This act\* is supplemental to the authority granted by K.S.A. 1968 Supp. 12-707 and any city empowered by this act to adopt zoning regulations for the area outside the city, but within three (3) miles thereof shall plan, adopt, amend, enforce and review zoning regulations in conformity with the provisions of Article 7 of Chapter 12 of the Kansas Statutes Annotated as amended by this act insofar as such provisions can be made applicable.

"12-715d. This act is supplemental to the provisions of the laws of this state which authorize counties to adopt zoning regulations for all or any part of the land located within the county and outside of any incorporated city, which laws are specifically K.S.A. 19-2901 to 19-2913, both sections inclusive, 19-2916b, 19-2916c, 19-2916d, 19-2927 to 19-2932, both sections inclusive, 19-2934, 19-2934a, 19-2935, 19-2936 and 19-2937 and K.S.A. 1968 Supp. 19-2914, 19-2915, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b, 19-2918c, 19-2919 to 19-2921, both sections inclusive, 19-2924, 29-2925, 19-2925a, 19-2926, 19-2926a, 19-2926b and 19-2933 and any amendments thereto. Existing city zoning regulations and the authority of any city to adopt zoning regulations for land located outside the city, but within three (3) miles thereof shall cease and terminate on the date the county or township places in effect zoning regulations which are in reasonable conformance with a comprehensive plan and have been adopted in conformity with the appropriate statutes set forth in this section."

\* See also K.S.A. 12-720

As presently established under the Kansas Statutes the power of extraterritorial zoning has several limitations. Some appear to be too restrictive, while the others appear to be quite proper. Before discussing these limitations it is appropriate to note the way in which the Kansas authority compares to the extraterritorial zoning authority granted in the states of Wisconsin and Florida.

The authority to adopt extraterritorial zoning in Wisconsin is found in Chapter 62, Section 62.23 Subsection (2) of the Wisconsin Statutes Annotated.

"(2) Functions. It shall be the function and duty of the commission (city planning) to make and adopt a master plan for the physical development of the municipality, including any areas outside its boundaries which, in the commission's judgment bear relation to the development of the municipality provided, however, that in any county where a regional planning department has been established, areas outside the boundaries of a municipality may not be included in the master without the consent of the county board of supervisors. The master plan, with accompanying maps, plats, charts and descriptive and explanatory matter, shall show the commission's recommendations for such physical development, and may include among other things without limitation because of enumeration,..., and a comprehensive zoning plan...."



Municipal authority to zone extraterritorially in Florida is found in Chapter 163, Section 163.160 Subsection (1) and Section 163.175, Subsection (1) of the Florida Statutes.

"163.160 (1) The several counties and incorporated municipalities of this state may plan for future development, adopt and amend comprehensive plans to guide future development, and adopt and enforce zoning regulations....

"163.175 (1) Municipalities and adjacent areas. -- Any incorporated municipality may exercise any or all of the powers granted under the provisions of this part in the total area within its corporate limits upon passage of an appropriate ordinance to that effect by the governing body. Unincorporated areas adjacent to incorporated municipalities may be added to and included in the area under municipal jurisdiction for the purposes of this part, when the governing bodies of the municipality and the county in which the area is located shall agree as to the boundaries of such additional areas, procedures for administration of ordinances and regulations applying to the area, and the manner of obtaining equitable representation on the commissions and boards provided for under this part. Such agreements shall be formally stated in appropriate official action by the governing bodies involved."

Comparison of the statutes indicates three distinct differences. First, in Kansas extraterritorial zoning does not apply to tracts of land in excess of three acres under one ownership and used for agricultural purposes. The Wisconsin and Florida Statutes do not restrict in this manner. A second difference is that the distance extraterritorial zoning can be extended away from the municipal boundaries in Wisconsin and Florida is not specifically delineated as it is in Kansas. In Kansas, extraterritorial zoning can only be extended three (3) miles from the municipal boundary. In Wisconsin, any area outside the boundaries that in the commission's judgment bears a relation to the development of the municipality can be zoned and in Florida it is left to the municipality and the county to determine the area to be zoned extraterritorially. The third difference is that in Kansas the municipalities power to use extraterritorial zoning ceases on the date that county and/or township zoning is adopted. The Wisconsin and Florida Statutes do not specify that the power must cease.

Some similar ones found in the three statutes are: first, the notification and consent of the county and/or regional jurisdictions is required before extraterritorial zoning can be established, and second, the duties of the planning commission and the board of zoning appeals are similar in all three statutes.

The limitations of the power to zone extraterritorially in Kansas, can be placed in two categories. First, there are limitations that are slightly restrictive, but acceptable, and second, there are limitations that are too restrictive and unacceptable.

Those limitations that are acceptable as presently specified under the Kansas Statutes are: 12-715b, Subparagraph (a), "The city has established a planning commission. . .", 12-715b subparagraph (b), "The land outside . . . has been included within a comprehensive plan . . .", 12-715b, Subparagraph (c), "The county or township does not have in effect zoning regulations . . .", 12-715b, subparagraph (d), "The city has notified the board of County Commissioners . . ." and 12-715c.2, "This act is supplemental to the authority granted by K.S.A. 1968 Supp. 12-707 . . ." Reasons for their acceptability are as follows.

The planning commission or a similar structure is necessary for the planning process to occur. This structure functions as an administrative leader, as a review board and as a basis for the implementation of the planning process. The probability of the planning process going astray is far greater without a planning commission structure of some kind than it is with an established structure. The planning commission structure provides the base for the planning process and is therefore, completely acceptable as a limitation on the use of extraterritorial zoning.

Implementation of extraterritorial zoning must be based upon a comprehensive plan that has been developed and adopted by the planning commission structure of the affected municipality. The comprehensive plan is an official public document adopted by a local government as a policy guide to decisions about the physical development of the municipality.

It indicates in a general way how the leaders of the government and the planning commission structure want the municipality to develop in the planning period. The comprehensive plan establishes the policies for the development of the municipality in a coordinated unified manner. The zoning ordinance is designed and developed to implement the comprehensive plan adopted by the local government. The zoning ordinance controls and regulates developed areas and the land to be developed as specified by the comprehensive plan. The extraterritorial zoning ordinance is the extension of the zoning ordinance that exists within the corporate limits. Extraterritorial zoning is a method of implementing that portion of the comprehensive plan that applies to land outside the corporate limits.

The necessity of including land outside the corporate limits has been discussed in previous sections, but briefly it was established that the general welfare of the municipality transcends the legally established boundaries and that the true territorial base of planning and zoning should be determined by social, economic and geographical features that often transcend those legal bounds. In Chapter 2, it was established that the courts have upheld the necessity of considering the areas across those legal bounds when performing planning functions. Finally, in Chapter 3, it was shown that the legislature has recognized the necessity of planning and recognized the relationship that exists between the municipality and the area adjacent to it.

The comprehensive plan is the guide for the development of the municipality and is the base from which the zoning ordinance is designed and developed. Without it, the validity of zoning is very questionable. Therefore, the limitation that the land outside the municipality has been included within a comprehensive plan is necessary and completely acceptable.

A county and/or township zoning resolution can provide the necessary regulation and control of the area outside a municipality. However, as previously discussed, if the county or township resolution does not reflect the needs and plans of a municipality then problems are created. In many cases the county and/or township resolution permits development to occur

that harms the municipality. Even though these problems exist, they do not justify the duplication of control and the expenses involved in implementing an extraterritorial zoning ordinance. The municipality should work with the county and/or township to amend the present resolution so that the necessary reflection of municipal needs can be attained, while at the same time not creating a hardship for county residents. This could be achieved by cooperation between the governments involved. This limitation is acceptable because it restricts duplication of control and expenses and it will help establish some cooperation that is so vitally needed in the area of county or township and municipal relationships.

The fourth limitation has no real significance other than being a method of communication between the municipality and the county government. The municipality should keep the county informed as to what actions they are taking which affect unincorporated county land.

The final limitation is necessary because K.S.A. 12-707 gives the municipalities the right to zone. Without the legal authority granted in K.S.A. 12-707 the municipalities cannot legally establish zoning anywhere.

Limitations found to be too restrictive are first:

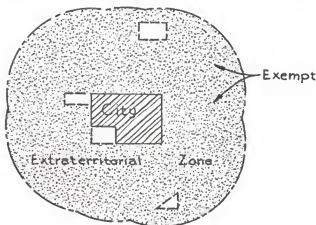
"12-715b. . . . nothing in this act shall be construed as authorizing any city to adopt regulations applying to or affecting any land in excess of three (3) acres under one ownership which is used only for agricultural purposes: . . ."

and second:

"12-715d. . . . Existing city zoning regulations and the authority of any city to adopt zoning regulation for land located outside the city, but within three (3) miles thereof shall cease and terminate on the date the county or township places in effect zoning regulation. . ."

The first limitation is too restrictive because it does not allow comprehensive zoning to occur in the extraterritorial area. Comprehensive is defined as covering completely or being inclusive by Webster's Seventh

Collegiate Dictionary. Exempting land in excess of three (3) acres under one ownership which is used only for agricultural purposes does not allow the comprehensive zoning (covering completely) of the extraterritorial area involved. The following hypothetical example illustrates this point.



From the above illustration it can be seen that the areas exempted by this restriction make up a major portion of the extraterritorial area and in effect make a complete covering of this area impossible. What can occur is piece-meal zoning, which is the zoning of scattered parcels of land.

As presently defined in Kansas, the term agriculture is a very broad category (see Carp vs. Board of County Commissioners) and creates problems in regulating and controlling the development of the land exempted by this section of the law. As agricultural development occurs, buildings, feedlots, pig farms etc., unregulated and uncontrolled because of the lack of comprehensive zoning, nonconforming and harmful land uses can and in many cases are being developed in the fringe areas.

As pointed out in Chapter 4, the survey indicated that this restriction does create problems in controlling the fringe area developments when they occur on the land exempted by this restriction. It was established that this restriction creates more problems as we move away from the municipal boundaries where there is more land being exempted by this restriction.

Regulation for the protection and promotion of the general welfare of a municipality does not cease and/or terminate on the day that a county or township enacts zoning regulations. The implementation of municipal planning and development is a continuous process and neither can nor should be made to cease and/or terminate. Unless those persons charged with the responsibility of county or township zoning are sympathetic with the objectives of municipal zoning then those objectives are made to cease and terminate on the date county or township zoning is adopted. As previously discussed in Chapter 1, county or township zoning is more likely to reflect the attitudes of the rural residents, and will be of little aid to the municipal objectives. If and when county or township zoning recognizes municipal objectives in controlling the fringe area, then the necessity of municipal extraterritorial zoning can be questioned. Until this occurs the need for municipal extraterritorial zoning remains.

## Chapter 6

A major objective of this research and analysis is to permit formulation of recommendations to improve and/or strengthen the power of extraterritorial zoning in Kansas. To establish a basis of knowledge from which the recommendations can properly be made, this report has presented the following discussions. First, a general discussion of extraterritorial zoning. Second, a discussion of the legal basis of extraterritorial zoning. Third, the history and intent of the Kansas Legislature in establishing extraterritorial zoning. Fourth, an analysis of the Kansas Statutes authorizing extraterritorial zoning and finally, an analysis of a survey conducted to determine the effects of the limitations found in the statutes and the extent and reasons for the use or nonuse of this power by certain Kansas municipalities.

It was determined that those limitations found in the statutes authorizing extraterritorial zoning, do have some restrictive effects on the use of extraterritorial zoning in Kansas. Therefore, the following recommendations are intended to serve as guidelines to improve and strengthen the power of extraterritorial zoning in Kansas.

### Recommendation 1.

To allow the municipalities in Kansas to plan and zone on a comprehensive basis and to permit regulation and control of the agricultural developments that are presently exempt from control it is recommended that K.S.A. 12-715b 1969 Supp. be amended as follows:

Change 12-715b from:

"Any city shall be authorized to adopt zoning regulations affecting land located outside the city, but within three (3) miles thereof under the following conditions, except that nothing in this act shall be construed as authorizing any city to adopt regulations applying to or affecting any land in excess of three (3) acres under one ownership which is used only for agricultural purposes: (a) same (b) same (c) same (d) same".

to:

Any city shall be authorized to adopt zoning regulations affecting land located outside the city, but within three (3) miles thereof under the following conditions: (a) same (b) same (c) same (d) below.

Recommendation 2.

To allow for the continuation of municipal planning on a comprehensive basis it is recommended that K.S.A. 12-715d 1969 Supp. be amended as follows:

Change from:

"This act is supplemental to the provisions of the laws of this state which authorize counties to adopt zoning regulations for all or any part of the land located within the county and outside of any incorporated city, which laws are specifically . . . and any amendments thereto. Existing city zoning regulations and the authority of any city to adopt zoning regulations for land located outside the city, but within three (3) miles thereof shall cease and terminate on the date the county or township places in effect zoning regulations which are in reasonable conformance with a comprehensive plan and have been adopted in conformity with the appropriate statutes set forth in this section."

to:

This act is supplemental to the provisions of the laws of this state which authorize counties to adopt zoning regulations for all or any part of the land located within the county and outside of any incorporated city, which laws are specifically . . . and any amendments thereto. Existing city zoning regulations and the authority of any city to adopt zoning regulations for land located outside the city, but within three (3) miles thereof may remain in force by agreement with the county or township even though the county or township places in effect zoning regulations which are in reasonable conformance with a comprehensive plan and have been adopted in conformity with the appropriate statutes set forth in this section.

Extraterritorial zoning can be an effective method of controlling the municipal fringe area. If initiated the above recommendations will give the Kansas extraterritorial zoning power the strength and power to deal effectively with the municipal fringe area.



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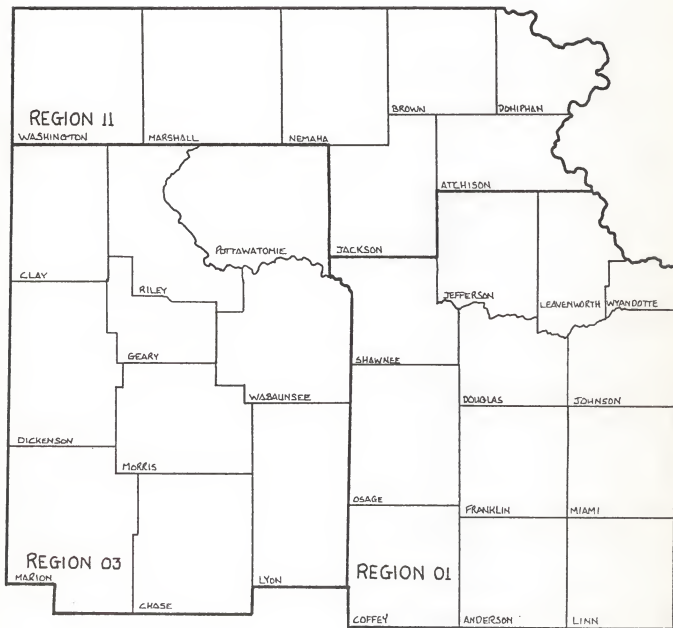
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#### APPENDIX

- A-1 Map of study area.
- A-2 Senate and House action on S.B. 210 and original bill and amended bill.
- A-3 Responses of Senator Gaar and former Representative Amrein.
- A-4 County questionnaire responses.
- A-5 Municipal questionnaire responses.

A-1

# NORTHEAST KANSAS STUDY AREA



A-2

## SENATE ACTION

February 17, 1969 - Twenty-fourth day.

Introduced and read for the first time.

S.B. 210 - by Senator Dearth: An act authorizing cities to adopt zoning regulations for land located within three miles thereof under certain conditions; prescribing the duties of certain city and county officers, boards and commissions; amending K.S.A. 12-720 and repealing the existing section.

February 18, 1969 - Twenty-fifth day.

Second reading and referred to committee.

S.B. 210 referred to State and Local Affairs.

March 17, 1969 - Forty-fourth day.

The Committee on State and Local Affairs recommended that:

S.B. 210 be amended on page 1, in line 3, by inserting before the colon the following, "except that nothing in this act shall be construed as authorizing any city to adopt regulations applying to or affecting any land in excess of three (3) acres under one ownership which is used only for agricultural purposes"; in line 15, by inserting after the word "county" the words "or township": On page 2, line 23, by inserting after the word "county" the words "or township": and the bill be passed as amended.

March 21, 1969 - Forty-eighth day.

The Committee of The Whole recommended the S.B. 210 be amended by the adoption of the committee amendments; and the bill be passed as amended.

March 24, 1969 - Forty-ninth day.

Third Reading. S.B. 210, an act authorizing cities to adopt zoning regulations for land located within 3 miles thereof under certain conditions; prescribing the duties of certain city and county officers, boards and commissioners: amending K.S.A. 12-720 and repealing the existing section, was read the third time.

On roll call, the vote was: Yeas 37, nays 0; absent or not voting 3 - Bennett, Harder, Warren. The bill was passed, as amended, and title was agreed to.

## HOUSE ACTION

March 25, 1969 - Fiftieth day.

Announced in the House that S.B. 210 was passed and was read for the first time in the House.

March 26, 1969 - Fifty-first day.

Second reading and reference of bill to committee.

S.B. 210 referred to Local Government Committee.

April 1, 1969 - Fifty-fifth day.

Local Government Committee recommends S.B. 210 be passed.

April 8, 1969 - Fifth-ninth day.

Committee of The Whole recommended S.B. 210 be passed over temporarily and retain a place on the calendar.

April 9, 1969 - Sixtieth day.

S.B. 210; an act authorizing cities to adopt zoning regulations for land located within 3 miles thereof under certain condition; prescribing the duties of certain city and county officers, boards and commissioners; amending K.S.A. 12-720 and repealing the existing section, was read the third time.

On roll call, the vote was: Yeas 94, nays 8.

April 10, 1969 - Sixty-first day.

S.B. 210 reported correctly enrolled, properly signed and presented to the governor on April 10, 1969.

April 14, 1969 - Sixty-fifth day.

Message from Governor - S.B. 210 approved on April 13, 1969.



## SENATE BILL No. 210

By Senator Dearth

AN ACT authorizing cities to adopt zoning regulations for land located within three miles thereof under certain conditions; prescribing the duties of certain city and county officers, boards and commissions; amending K. S. A. 12-720 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

1    *New Section 1.* Any city shall be authorized to adopt zoning regu-  
2    lations affecting land located outside the city but within three (3)  
3    miles thereof under the following conditions:

4    (a) The city has established a planning commission under the  
5    provisions of K. S. A. 1968 Supp. 12-702, which provides for the ap-  
6    pointment of two (2) commission members who reside outside the  
7    city but within three (3) miles thereof, or the city has established  
8    a joint, metropolitan or regional planning commission in cooperation  
9    with the county in which such city is located pursuant to the pro-  
10    visions of K. S. A. 1968 Supp. 12-718.

11    (b) The land outside the city but within three (3) miles thereof  
12    has been included within a comprehensive plan recommended by  
13    either of said planning commissions and has been approved by the  
14    city governing body or the board of county commissioners.

15    (c) The county does not have in effect zoning regulations for  
16    such area outside the city but within three (3) miles thereof adopted  
17    in conformity with the statutes prescribing procedure for the adop-  
18    tion of county zoning regulations.

19    (d) The city has notified the board of county commissions in  
20    writing sixty (60) days before initiating zoning regulations by ordi-

1 nance for such area of its intention to adopt such regulations by  
2 ordinance.

3 *New Sec. 2.* This act is supplemental to the authority granted  
4 by K. S. A. 1968 Supp. 12-707 and any city empowered by this act  
5 to adopt zoning regulations for the area outside the city but within  
6 three (3) miles thereof shall plan, adopt, amend, enforce and review  
7 zoning regulations in conformity with the provisions of article 7 of  
8 chapter 12 of the Kansas Statutes Annotated as amended by this  
9 act insofar as such provisions can be made applicable.

10 *New Sec. 3.* This act is supplemental to the provisions of the laws  
11 of this state which authorize counties to adopt zoning regulations  
12 for all or any part of the land located within the county and outside  
13 of any incorporated city, which laws are specifically K. S. A. 19-2901  
14 to 19-2913, both sections inclusive, 19-2916b, 19-2916c, 19-2916d,  
15 19-2927 to 19-2932, both sections inclusive, 19-2934, 19-2934a,  
16 19-2935, 19-2936 and 19-2937, and K. S. A. 1968 Supp. 19-2914,  
17 19-2915, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b, 19-2918c,  
18 19-2919 to 19-2921, both sections inclusive, 19-2924, 19-2925,  
19 19-2925a, 19-2926, 19-2926a, 19-2926b and 19-2933, and any amend-  
20 ments thereto. Existing city zoning regulations and the authority  
21 of any city to adopt zoning regulations for land located outside the  
22 city but within three (3) miles thereof shall cease and terminate on  
23 the date the county places in effect zoning regulations which are in  
24 reasonable conformance with a comprehensive plan and have been  
25 adopted in conformity with the appropriate statutes set forth in  
26 this section.

27 *Sec. 4.* K. S. A. 12-720 is hereby amended to read as follows:  
28 12-720. Nothing in ~~this act~~ *the provisions of K. S. A. 12-716 to*  
29 *12-724, both sections inclusive, and any amendments thereto* shall  
30 be construed to remove or limit the powers of the cooperating cities  
31 and counties as provided by state law. All legislative power with

1 respect to zoning and other planning legislation shall remain with  
2 the governing body of the cooperating cities and counties *except as*  
3 *otherwise provided in this act*. Each participating city or county  
4 may continue to have its own planning commission or board but  
5 may under the joint agreement and in the interests of economy and  
6 efficiency and in the interest of uniform standards and procedures,  
7 request the metropolitan or regional planning commission to assume  
8 duties and functions of local planning agencies in whole or in part.  
9 The metropolitan or regional planning commission shall have the  
10 duty and function of promoting public interest and understanding  
11 of the economic and social necessity for long-term coordinated  
12 planning for the metropolitan or regional area but its official recom-  
13 mendations shall be made to the governing bodies of the cooperating  
14 cities or counties.

15 Sec. 5. K. S. A. 12-720 is hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after  
17 its publication in the statute book.  
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(As Amended by Senate Committee)

Session of 1969

## SENATE BILL No. 210

By Senator Dearth

AN ACT authorizing cities to adopt zoning regulations for land located within three miles thereof under certain conditions; prescribing the duties of certain city and county officers, boards and commissions; amending K. S. A. 12-720 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

1    *New Section 1.* Any city shall be authorized to adopt zoning regu-  
2    lations affecting land located outside the city but within three (3)  
3    miles thereof under the following conditions, *except that nothing in*  
4    *this act shall be construed as authorizing any city to adopt regu-*  
5    *lations applying to or affecting any land in excess of three (3)*  
6    *acres under one ownership which is used only for agricultural*  
7    *purposes:*

8    (a) The city has established a planning commission under the  
9    provisions of K. S. A. 1968 Supp. 12-702, which provides for the ap-  
10   pointment of two (2) commission members who reside outside the  
11   city but within three (3) miles thereof, or the city has established  
12   a joint, metropolitan or regional planning commission in cooperation  
13   with the county in which such city is located pursuant to the pro-  
14   visions of K. S. A. 1968 Supp. 12-718.

15   (b) The land outside the city but within three (3) miles thereof  
16   has been included within a comprehensive plan recommended by  
17   either of said planning commissions and has been approved by the  
18   city governing body or the board of county commissioners.

19   (c) The county *or township* does not have in effect zoning reg-  
20   ulations for such area outside the city but within three (3) miles

thereof adopted in conformity with the statutes prescribing procedure for the adoption of county zoning regulations.

(d) The city has notified the board of county commissions in writing sixty (60) days before initiating zoning regulations by ordinance for such area of its intention to adopt such regulations by ordinance.

*New Sec. 2.* This act is supplemental to the authority granted by K. S. A. 1968 Supp. 12-707 and any city empowered by this act to adopt zoning regulations for the area outside the city but within three (3) miles thereof shall plan, adopt, amend, enforce and review zoning regulations in conformity with the provisions of article 7 of chapter 12 of the Kansas Statutes Annotated as amended by this act insofar as such provisions can be made applicable.

*New Sec. 3.* This act is supplemental to the provisions of the laws of this state which authorize counties to adopt zoning regulations for all or any part of the land located within the county and outside of any incorporated city, which laws are specifically K. S. A. 19-2901 to 19-2913, both sections inclusive, 19-2916b, 19-2916c, 19-2916d, 19-2927 to 19-2932, both sections inclusive, 19-2934, 19-2934a, 19-2935, 19-2936 and 19-2937, and K. S. A. 1968 Supp. 19-2914, 19-2915, 19-2916, 19-2916a, 19-2918, 19-2918a, 19-2918b, 19-2918c, 19-2919 to 19-2921, both sections inclusive, 19-2924, 19-2925, 19-2925a, 19-2926, 19-2926a, 19-2926b and 19-2933, and any amendments thereto. Existing city zoning regulations and the authority of any city to adopt zoning regulations for land located outside the city but within three (3) miles thereof shall cease and terminate on the date the county or township places in effect zoning regulations which are in reasonable conformance with a comprehensive plan and have been adopted in conformity with the appropriate statutes set forth in this section.

*Sec. 4.* K. S. A. 12-720 is hereby amended to read as follows:

1 12-720. Nothing in ~~this act~~ *the provisions of K. S. A. 12-716 to*  
2 *12-724, both sections inclusive, and any amendments thereto* shall  
3 be construed to remove or limit the powers of the cooperating cities  
4 and counties as provided by state law. All legislative power with  
5 respect to zoning and other planning legislation shall remain with  
6 the governing body of the cooperating cities and counties *except as*  
7 *otherwise provided in this act.* Each participating city or county  
8 may continue to have its own planning commission or board but  
9 may under the joint agreement and in the interests of economy and  
10 efficiency and in the interest of uniform standards and procedures,  
11 request the metropolitan or regional planning commission to assume  
12 duties and functions of local planning agencies in whole or in part.  
13 The metropolitan or regional planning commission shall have the  
14 duty and function of promoting public interest and understanding  
15 of the economic and social necessity for long-term coordinated  
16 planning for the metropolitan or regional area but its official recom-  
17 mendations shall be made to the governing bodies of the cooperating  
18 cities or counties.

19 Sec. 5. K. S. A. 12-720 is hereby repealed.

20 Sec. 6. This act shall take effect and be in force from and after  
21 its publication in the statute book.  
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A-3

STATE OF KANSAS

ORMAN E. GAAR  
ENATOR SEVENTH DISTRICT  
JOHNSON COUNTY  
2340 WEST 51ST STREET  
ITWOOD, KANSAS 66205



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
CHAIRMAN: ASSESSMENT AND TAXATION  
MEMBER: JUDICIARY  
LOCAL GOVERNMENT  
GOVERNMENTAL ORGANIZATION

February 21, 1974

Mr. Fred Gress  
1010½ Laramie  
Manhattan, Kansas 66502

Dear Mr. Gress:

I have your recent letter inquiring about legislative intent during the debate on Senate Bill 210 in the 1969 session of the legislature. I would be glad to discuss the matter with you but it's extremely difficult for me to remember the context of the committee hearings that long ago. It is possible that former State Representative Donald Amreim, 6601 West 67th Street, Overland Park, Kansas, might be able to help. He was the Chairman of the House Local Government Committee and was much more involved with annexation than I. I suggest you ask him by letter if he could advise you of the name of the staff member of the Legislative Research Department who was helping the Local Government Committee at that time. Perhaps that person could be of some assistance.

At any rate, I will try to be of whatever assistance I can.

Very truly yours,

*Orman E. Gaar*

NWG/gs



DONALD C. AMREIN  
ATTORNEY AT LAW  
SHAWNEE MISSION, KANSAS 66207

SUITE 401, CAPITOL FEDERAL BUILDING  
95TH AND NALL AVENUE

AREA CODE 913  
TELEPHONE 381-6226

March 25, 1974

Mr. Frank Gress  
1010-1/2 Laramie  
Manhattan, Kansas 66502

Dear Mr. Gress:

Enclosed is the legislative history of Senate Bill 210 of the 1969 Session as shown by the Journals of the Senate and the House.

This may not be of much help to you and I would be happy to visit with you on the telephone at your convenience. May I suggest that you attempt to contact Senator William A. Dearth of Parsons, Kansas, who was the author of the Bill. I do not know if he is still in the Senate, but at that time he was the President of the Bill Dearth Insurance Company, Inc., of Parsons.

I do not remember any particular staff member of the research department who worked in connection with this Bill. However, if you contact that office, I'm sure you will find they are very cooperative and able and would help you in this matter.

I was not particularly interested in the Bill since Johnson County has township zoning in each of the several townships here and therefore the Bill was of no application here. I do recall that one of the arguments for the Bill was that the smaller communities, and perhaps all communities, could control the use of the lands adjoining the highways leading into and away from the city limits. There are and were some unsightly and some unnecessary land uses just outside of many city limits. Of course, you are getting into another field entirely when the discussion concerns zoning for aesthetic purposes.

Several years earlier when the new annexation law was passed there were unsuccessful attempts to permit annexation down the highways leading to and away from cities for this very same reason. I will be glad to talk with you further when you call on the subject.

Sincerely,

  
DONALD C. AMREIN

A-4

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance?    yes ☒    no ☐

Does it cover all unincorporated land?                      yes xx    no       

If not, what areas are covered by the ordinance?

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes      no    x

If yes, did the County Planning Commission agree to such action? \_\_\_\_\_ Disagree with such action? \_\_\_\_\_ Take no position, either official or unofficial? \_\_\_\_\_.

If such discussions have not been held, would you favor such discussions?

Do you personally feel that such zoning would be good?

yes \_\_\_\_\_ no x

Please feel free to make further comments if you wish.

~~The cities in Jefferson County use the County Regulations as guidelines to their zoning ordinances. There are no cities in the county that follow their regulations as close as the unincorporated area follow theirs.~~

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes ☒ no ☐

Does it cover all unincorporated land? yes ☒ no ☐

If not, what areas are covered by the ordinance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☐ no ☒

If yes, did the County Planning Commission agree to such action? ☐ Disagree with such action? ☐ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions?

yes ☒ no ☐

Do you personally feel that such zoning would be good?

yes ☒ no ☐

Please feel free to make further comments if you wish.

*State enabling legislation is vitally needed on the above subject.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Andy Shilling*  
*Planning Director*



I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes ☒ no ☐

Does it cover all unincorporated land? yes ☒ no ☐

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no ☐

If yes, did the County Planning Commission agree to such action? ☐ Disagree with such action? ☒ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions? yes ☒ no ☐

Do you personally feel that such zoning would be good?

yes ☐ no ☒

Please feel free to make further comments if you wish.

*It would work fine around the towns in our county but to handle as a whole as a market town city is not within our county. While not having an official zoning ordinance the towns statutes prohibit any city zoning outside of their city limits.*

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes X no     

Does it cover all unincorporated land? yes X no     

If not, what areas are covered by the ordinance?

There are 3 cities. The county who presently has <sup>their</sup> ~~the~~ a zoning ordinance within the city limits. None of the cities follow the 3 mile limit.

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes      no X (Not that I know)

If yes, did the County Planning Commission agree to such action?      Disagree with such action?      Take no position, either official or unofficial? X.

If such discussions have not been held, would you favor such discussions? yes      no X

Do you personally feel that such zoning would be good?

yes      no X

Please feel free to make further comments if you wish.

Doniphan County was the 1st in the state to adopt Zoning 3 years ago and the effect is more centralized. 2 of the 3 cities went well above capacity if the 3 mile limit was applied. If the 3 mile limit were applied in a situation where heavy industry towns overlap one could see where heavy industry may interfere in a residential area, which would not be in holding with the intent of zoning: orderly growth. The 3 mile limit would be acceptable in an area of sparse population or where a city may want a safeguard and county government can not or will not provide it.

been on the job for 1 month and in afraid to say more.

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes X no     

Does it cover all unincorporated land? yes      no X

If not, what areas are covered by the ordinance?

Area within 3 miles of city limits of  
Empire

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.? X

yes      no     

If yes, did the County Planning Commission agree to such action?      Disagree with such action?      Take no position, either official or unofficial?     . X

If such discussions have not been held, would you favor such discussions? X yes      no     

Do you personally feel that such zoning would be good?

X yes      no     

Please feel free to make further comments if you wish.

X See other side

We have a City-County joint board for planning and zoning. Zoning within the city came first and was later extended to the 3 mile area. There has never (at least to my knowledge) been a separate county board.

I personally feel that some zonigg in the county is essential to proper urban development. I further believe that some minimal zoning would be good throughout the county, especially near the other small towns. Such minimal zoning control should also apply to these small towns unless they have zoning fof their own.

Good luck on your thesis.



J. Brinkman



I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes Y no     

Does it cover all unincorporated land? yes X no     

If not, what areas are covered by the ordinance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes      no X

If yes, did the County Planning Commission agree to such action?      Disagree with such action?      Take no position, either official or unofficial?     .

If such discussions have not been held, would you favor such discussions?

yes      no X

Do you personally feel that such zoning would be good?

yes      no X

Please feel free to make further comments if you wish.

We have a joint city-county planning commission;  
Consequently, the jurisdiction of this Commission  
includes all unincorporated land in Douglas County  
as well as the City of Lawrence. Three cities  
are not within the jurisdiction of this Commission:  
Evans, Baldwin, and Leecompton. Since there is a  
county planning commission the State Statutes do not  
allow the implementation of the three (3) mile limit provision.

*Dary Montague, Planner*

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes ☒ no ☐

Does it cover all unincorporated land? yes ☒ no ☐

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no ☐

If yes, did the County Planning Commission agree to such action? Yes Disagree with such action? ☐ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions? yes ☐ no ☐

Do you personally feel that such zoning would be good? yes ☒ no ☐

Please feel free to make further comments if you wish.

I have heard a City - County Zoning Board for almost 10 years  
and am not pleased with its management.

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*Just a Geary. Thank you.*

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes ☒ no ☐

Does it cover all unincorporated land? yes ☒ no ☐

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no ☐

If yes, did the County Planning Commission agree to such action? ☒ Disagree with such action? ☐ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions?

yes ☐ no ☐

Do you personally feel that such zoning would be good?

yes ☒ no ☐

Please feel free to make further comments if you wish.

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I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes ☒ no ☐

Does it cover all unincorporated land? yes ☒ no ☐

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☐ no ☐

If yes, did the County Planning Commission agree to such action? ☐ Disagree with such action? ☐ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions?

yes ☐ no ☐

Do you personally feel that such zoning would be good?

yes ☐ no ☐

Please feel free to make further comments if you wish.

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I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance?    yes ☒ no ☐

Does it cover all unincorporated land?    yes ☒ no ☐

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no ☐

If yes, did the County Planning Commission agree to such action? ☒ Disagree with such action? ☐ Take no position, either official or unofficial? ☐.

If such discussions have not been held, would you favor such discussions?    yes ☒ no ☐

Do you personally feel that such zoning would be good?    yes ☒ no ☐

Please feel free to make further comments if you wish.

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*Ed Rogers Jr.*  
*Chairman*

(17)

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes        no   ~~11~~  

The Zoning ordinance has been completed but not yet adopted.

Does it cover all unincorporated land? yes   ~~11~~   no       

If not, what areas are covered by the ordinance?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes   ~~11~~   no   1  

If yes, did the County Planning Commission agree to such action?   ~~11~~   Disagree with such action?        Take no position, either official or unofficial?       .

If such discussions have not been held, would you favor such discussions? yes        no       

Do you personally feel that such zoning would be good?

yes   ~~11~~   no       

Please feel free to make further comments if you wish.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sorry for the delay on this but it just reached me yesterday as

I get my mail in Sabatha, Ks

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes\_\_\_ no ✓

Does it cover all unincorporated land? yes\_\_\_ no ✓

If not, what areas are covered by the ordinance?

8 Twp Zoned & 5 Twp not Zoned

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes\_\_\_ no ✓

If yes, did the County Planning Commission agree to such action?\_\_\_ Disagree with such action?\_\_\_ Take no position, either official or unofficial?\_\_\_.

If such discussions have not been held, would you favor such discussions? yes ✓ no\_\_\_

Do you personally feel that such zoning would be good? yes ✓ no\_\_\_

Please feel free to make further comments if you wish.

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Marion .

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes \_\_\_\_\_ no ☒

Does it cover all unincorporated land? yes ☒ no \_\_\_\_\_

If not, what areas are covered by the ordinance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no \_\_\_\_\_

If yes, did the County Planning Commission agree to such action? \_\_\_\_\_ Disagree with such action? ☒ Take no position, either official or unofficial? \_\_\_\_\_.

If such discussions have not been held, would you favor such discussions?

yes \_\_\_\_\_ no ☒

Do you personally feel that such zoning would be good?

yes \_\_\_\_\_ no ☒

Please feel free to make further comments if you wish.

*county plans to establish zoning  
on county wide basis*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes \_\_\_ no ✓

Does it cover all unincorporated land? yes \_\_\_ no \_\_\_

If not, what areas are covered by the ordinance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes \_\_\_ no ✓

If yes, did the County Planning Commission agree to such action? \_\_\_ Disagree with such action? \_\_\_ Take no position, either official or unofficial? \_\_\_.

If such discussions have not been held, would you favor such discussions?

yes ✓ no \_\_\_

Do you personally feel that such zoning would be good?

yes ✓ no \_\_\_

Please feel free to make further comments if you wish.

*There has been some discussion of zoning of Linn County, but no action has been taken to date.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes\_\_\_ no X

Does it cover all unincorporated land? yes\_\_\_ no\_\_\_

If not, what areas are covered by the ordinance?

CITY OF GARNETT

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes X no\_\_\_

If yes, did the County Planning Commission agree to such action?\_\_\_ Disagree with such action? X Take no position, either official or unofficial?\_\_\_.

If such discussions have not been held, would you favor such discussions?

yes\_\_\_ no\_\_\_

Do you personally feel that such zoning would be good?

yes\_\_\_ no X

Please feel free to make further comments if you wish.

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I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes\_\_\_ no\_\_\_✓

Does it cover all unincorporated land? yes\_\_\_ no\_\_\_

If not, what areas are covered by the ordinance?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes\_\_\_✓\_\_\_ no\_\_\_

If yes, did the County Planning Commission agree to such action? 4/13 Disagree with such action?\_\_\_ Take no position, either official or unofficial?\_\_\_.

If such discussions have not been held, would you favor such discussions? yes\_\_\_ no\_\_\_

Do you personally feel that such zoning would be good? yes\_\_\_ no\_\_\_✓

Please feel free to make further comments if you wish.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Has your county adopted a zoning ordinance? yes\_\_\_\_ no ☒

Does it cover all unincorporated land? yes\_\_\_\_ no\_\_\_\_

If not, what areas are covered by the ordinance?

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Has the County Planning Commission had any official discussion of allowing the cities to zone in their own three-mile ring as provided for in K.S.A. 12-715b, 1969 Supp.?

yes ☒ no\_\_\_\_

If yes, did the County Planning Commission agree to such action?\_\_\_\_ Disagree with such action?\_\_\_\_ Take no position, either official or unofficial?\_\_\_\_.

If such discussions have not been held, would you favor such discussions? yes\_\_\_\_ no\_\_\_\_

Do you personally feel that such zoning would be good?

yes\_\_\_\_ no\_\_\_\_

Please feel free to make further comments if you wish.

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A-5

HOLLAND

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ✓ no       

Have you adopted such a zoning provision?

yes ✓ no       

If you have adopted such a provision please briefly explain your reasons for doing so.

Adopted zoning to coincide with the County zoning  
Joint City-County

Have you ever considered implementing this power?

yes        no       

If yes, briefly explain why you did not implement this power.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof    under certain conditions.      yes ☒ no ☐

Have you adopted such a zoning provision?      yes ☒ no ☐ None

If you have adopted such a provision please briefly explain your reasons for doing so. County Commissioners  
advised City that about this law

Have you ever considered implementing this power?      yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

Planning Commission studying the various uses  
this land might be best used

THANK YOU

Hola

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☒ no ☐

If you have adopted such a provision please briefly explain your reasons for doing so.

To Control developments  
being started outside the city limits  
that will in the future no doubt become  
part of the City

Have you ever considered implementing this power?

yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

We did. We considered the plan  
~~presented~~ presented suggested changes  
then approved the revised plan.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

We are presently being faced with the possibility of  
the adoption of a Countywide zoning Ordinance which  
does not mention the 3 mile authority of City Zoning.  
We do not know how this will effect our Authority

THANK YOU





I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

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Have you adopted such a zoning provision?                      yes                      no     ✓

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?  
yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

• In THE PROCESS OF DOING SO.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

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Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☐ no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

*Indian County is considering zoning and building code regulations.*

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

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Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

Have you adopted such a zoning provision?

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

2 It has been discussed  
yes no

If yes, briefly explain why you did not implement this power.

Nemaha County has a very good comprehensive county zoning plan ready for adoption. We feel this to be more equitable & uniform than a hodge-podge of small towns within this county zoning areas around them. Enforcement more uniform also.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

THE CITY OF SENECA  
SENECA, KANSAS 66538

Robert A. Kinnear  
city clerk

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☐ no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes ☐ no ☒

If ~~yes~~, briefly explain why you did not implement this power.

*No need seem. And we can't afford to.   
 worry the ill will of farmers owning   
 the land.*

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

Have you adopted such a zoning provision?                      yes                      no     ✓

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?  
yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

Too political - who's that bunch looking up at?  
the other and the winged inhabitants.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

Hogsville, I am in at school. It is good to see you.  
 George, I hope you are well. I am waiting.

received by phone

11/20/74

THANK YOU

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Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions. yes X no \_\_\_\_\_

Have you adopted such a zoning provision? yes \_\_\_\_\_ no X

If you have adopted such a provision please briefly explain your reasons for doing so. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you ever considered implementing this power? yes X no \_\_\_\_\_

If yes, briefly explain why you did not implement this power.

The rural people were very strongly opposed to it.  
\_\_\_\_\_  
\_\_\_\_\_

If no, briefly explain why you have not considered this power.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please feel free to make further comments if you wish.

Our Planning Commission has rural ~~pop~~ representation  
and if the need arose might adopt zoning within  
the 3 mile limit.  
\_\_\_\_\_

THANK YOU

Chapman

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☐ no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes ☒ no ☐

If yes, briefly explain why you did not implement this power.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

City Clerk.



I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes X no       

Have you adopted such a zoning provision?

yes        no X

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes X no       

If yes, briefly explain why you did not implement this power.

The area immediately adjacent to the  
City is either in a flood plain and cannot  
be developed or is land owned by the State  
of Kansas for the Osawatomie State Hospital

If no, briefly explain why you have not considered this power.

(more than 1000 A)

Please feel free to make further comments if you wish.

There is also ~~no~~ some legal question  
as to a city's ability to actually enforce  
such zoning

THANK YOU

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yes ☒ no ☐

Have you adopted such a zoning provision?      yes      no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?  
yes X no

If yes, briefly explain why you did not implement this power.

Refusant to impose laws without knowing  
the results of their laws. Also, no Refusal  
Rural zoning should be controlled by the County.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

"He studied the matter 2 years ago and couldn't  
find adequate information."

THANK YOU

Greenway

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

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yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☐ no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes ☐ no ☒

If yes, briefly explain why you did not implement this power.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU

Mr Fairland

I am a graduate student working on my thesis report. Would you please answer the following questions and return them to me in the envelope provided. Your response is greatly appreciated.

Is your City Planning Commission aware of the power of extraterritorial zoning granted under K.S.A. 12-715b, 1969 Supp., which gives the authority to cities to adopt zoning regulations for land located within three miles thereof under certain conditions.

yes ☒ no ☐

Have you adopted such a zoning provision?

yes ☐ no ☒

If you have adopted such a provision please briefly explain your reasons for doing so.

Have you ever considered implementing this power?

yes ☐ no ☒

If yes, briefly explain why you did not implement this power.

If no, briefly explain why you have not considered this power.

Please feel free to make further comments if you wish.

THANK YOU